IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE G. BIKSHAPATHY

and
THE HON'BLE Mr. JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 2831 of 2004

Between:

1 Union of India through the Secretary, Ministry of Defence, Government of India, South Block, New Delhi.
2 The Controller General of Defence Accounts, West Block-V,

R.K.Puram, New Delhi.
3 The Controller of Defence Accounts, No.1, Staff Road, Near

Secunderabad Club,Secunderabad-500 009.

..... PETITIONERS

AND

1 S.Suryanarayana S/o. S.Gundoji Rao,
R/o.Q.No.B-95, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.
2 G.Vijayakumar S/o. G.Sunder
R/o.H.No.EWS, 1-73[West], MCH Colony, Parsigutta, Hyderabad.
3 G. Rekha Rani W/o. N. Jag Dass
R/o.Q.No.B-82, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.
4 K.Sumitra, W/o. Ravinder Nath
R/o.Plot No.69, Sree Colony, Naredmet, Secunderabad.
5 J. Bhaskar, S/o.Late J. Yadagiri,
R/o.B-157, DAD Quarters, Lekha Nagar, Trimulgherry,
Secunderabad-500 015.
6 J.V.N.D. Malleshwar S/o.Late J. Yadagiri,
R/o.Q.No.B-157, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.

7 K.V.S.N.N. Srinivas, S/o.K.Hanumantha Rao
R/o.Q.No.B-170, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.

8 G.K. Sudhakar S/o. G.K. Rama Murthy
R/o.Plot No.82, Sripuram Colony, Malakpet, Hyderabad-36.

9 G.V.S.L. Kameshwari, W/o.Y. Sri Bhaskar,
R/o.Q.No.B-65, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.

10 R. Arun Kumar S/o.Late R. Ananthaiah Goud,
H.No.18-6-1073, Out Lal Darwaja, Balagunj, Hyderabad-500 253.

11 K.S.Pushpa Latha, W/o. M. Siva Shankaran
R/o.Plot No.A-47, Alivelu Towers, T-1, 2nd floor, MES Colony,
Secunderabad-15.

12 P. Sujatha D/o.P. Rama Rao,
R/o.H.No.12-10-416/10, Warasiguda, Near SBH Lane, Secunderabad.

13 B. Shailaja W/o. T. Narsing Rao,
R/o.H.No. 8-1-285, Shaikpet, Golconda [PO], Hyderabad-008.

14 G. Padmaja,W/o. Lingadhar,
R/o.B-91, DAD Qtrs., Lekhanagar, Trimulgherry, Secunderabad-015.

15 P.Shiva Shankar Rao, S/o. P.G.Padmanabha Rao,
R/o.B-150, DAD Qtrs., Lekhanagar, Trimulgherry, Secunderabad-

015.

16 P.Radha, W/o. Ra. Vanamamalai,
R/o. 10/1B, Sai Vasavi Enclave, Old Vasavi Nagar, Secunderabad-15.

17 MD. Mansoor Ali Khan, W/o. Md. Yousuf Ali Khan,
R/o.H.No. 9-8-157, DMRL Road, Santoshnagar, Hyderabad-500 059.

18 M.S.R. Radha Devi, W/o. M. Srinviasa Murthy,
R/o.Plot No.17, Chandragiri Colony, Trimulgherry, Secunderabad-15

19 P. Somi Reddy, S/o. Late P.V.N. Reddy,
R/o. H.no.8-2-293/67, Nandinagar, Banjara Hills, Hyderabad-034.

20 K. Yaseen Shareef, S/o.Late Khaja Hassan Shareef,
R/o.H.No.11-5-511, Red Hills, Nampally, Hyderabad-004.

21 M. Sujatha, W/o. P. Gopal Reddy,
R/o.H.No.8-2-161, Panjagutta, Hyderabad-082.

22 G.R.Mani Kumari, W/o. G. Ravi Shankar,
R/o.Plot No.58, R.T.C. Colony, Thirumulgherry,
Secunderabad-15.

23 T. Jangaiah, S/o.Late T. Ramachandra,
R/o.H.No.1-9-260, Kushaiguda ECIL [PO], Ranga Reddy District,

Hyderabad-062.

24 I. Bhaskar Rao, S/o.I. Suri Babu,
R/o.Q.No.B-178, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.

25 V.Swarajya Lakshmi, W/o. N.S.V. Ramanamurthy,
R/o.165/3RT, Vijayanagar Colony, Hyderabad.

26 S. Nagabhushana Reddy S/o. S.Thippa Reddy,

R/o.B-133, DAD Quarters, Lekha Nagar, Trimulgherry,

Secunderabad-015.

27 T.Venkateshwarlu S/o. T. Venkaiah
R/o.H.No.12-12-160/1, Ravindranagar, Seethafalmandi,

Secunderabad.

28 P.J. Vinay Kumar, S/o. P.N. Janardhan Rao,
R/o. RB-II, 466/3, Chilakaguda, Secunderabad.

29 G.Vimala, W/o.K. Anand Reddy,
R/o.H.No.1-3-183/40/46/13A, Sainagar Colony, Gandhinagar,

Hyderabad-080.

30 I. Raja Sekhar, S/o. Late I.S. Lalaji,
R/o Plot No.70, Bhudevi Nagar, Venkatapuram, Secunderabad-015.

31 K. Raghava Reddy, S/o. K. Mukund Reddy,
R/o.Plot No.64, Phase-III, Prudential Bank Colony, Subhash Nagar,

Secunderabad.

32 C.V.L.Annapurna, W/o.Ch.V.S.S.S.Sastry,
R/o.Plot No.70, Bhudevi Nagar, Venkatapuram, Secunderabad-015.

33 I. Lakshmi Swarnalatha, W/o.I.Raja Sekhar,
R/o.Plot No.70, Bhudevi Nagar, Venkatapuram, Secunderabad-015.

34 B.Uttam Kumari, S/o.Late B. Satyanarayana,
R/o.H.No.19-1-750, Maharaj Gunj, Dood Bowli, Hyderabad-264.

35 C.Manoj Kumar, S/o.C. Durga Prasad Rao,
R/o.Flat No.21/103,Karol Bagh Apartments, Padmanabhanagar,

Mehdipatnam, Hyderabad-028

36 P.Surendranath, S/o. Balram Puli,
R/o. Plot No.1, Chaya Coop.Society, Asha Officers Colony,

Gandhinagar, R.K.Puram-056.

37 J.Sudhakar, S/o.Late J. Yadagiri,
R/o.Q.No.B-39, DAD Qts.,Lekha Nagar, Trimulgherry,

Secunderabad-15.

38 K. Phaneshwari, W/o. Y.V. Subrahmanyam,
R/o.B-1, Krishna Sai Apatments, Shivpuri Colony, Malkajgiri,
Hyderabad-47.

39 J. Vinay Kumar S/o. J. Lalitha Prasad,
R/o.H.No.17-9, Jyothinagar, North Lalaguda, Secunderabad-017.

40 M. Jacob George, S/o. Prakasam,
R/o.201, Sneha Appartments, Venkatapuram, Secunderabad.

41 P. Sunithra W/o.P. Surendranath,
R/o.Plot No.1, Chaya Coop.Society, Asha Officers Colony, Gandhi

Nagar, R.K.Puram-056.

42 C.S.Ranga Swamy, S/o.C.C.Chennaiah,
R/o.H.No.3, NMDC Colony, East Anand Bagh, Safilguda,

Hyderabad-047.

43 C.V.Sharada, D/o. C.V.R.Murthy,

R/o.Plot No.30, IOB Colony, Trimulgherry, Secunderabad-015.

44 C.V.Nataraj, S/o. C.Veeraiah,
R/o. Plot No.68, PCB Colony, Trimulgherry, Secunderabad-15.

45 D. Roja Rani, W/o. Gowri Shanker Reddy
R/o.H.No.12-10-336/14/2, Sitafalmandai, Secunderabad-61.

46 K. Raja Sekhar, S/o. K. Ramulu,
R/o.H.No.28/39, Plot No.9, Prudential Bank Colony,
Subhashnagar, Secunderabad-500 021.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A. No. 371 of 2002 dated 28.6.2002 as construed in Contempt Petition No.16 of 2002 dated 16.10.2003 on the file of Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void ab initio, null and void and nonest in the eye of law.

Counsel for the Petitioner:MR.ARAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondents: MR.T.JAGADISH

The Court made the following

ORDER: (per the Hon'ble Sri Justice G. Bikshapathy J.)

The writ petition is filed by the Union of India assailing the interim order dated 16.10.2003 passed by the Central Administrative Tribunal in C.P.No.16 of 2003 in O.A.No.371 of 2002.

2. O.A.No.371 of 2002 filed by the petitioner was disposed of by the Tribunal with the following directions:

> "We direct that the respondents shall examine the case of these applicants and consequential relief, if any, be granted to them, to which they may be found entitled, as per the departmental instructions, within a period of three months from the date of receipt of a copy of this order."

Feeling aggrieved that the order has not been fully complied with, the petitioner filed C.P.No. 16 of 2003 for appropriate relief. In the said contempt petition, the Tribunal passed the following order and listed the matter on 13.1.2003 for reporting compliance:

> "He therefore submitted that the respondents are entitled to contend that as per the departmental instruction only DEOs of

> Gr.B are entitled to the scale of Rs.1350-2200 and not the DEOs of Gr.A and the DEOs grade A are entitled to pay scale of Rs.1150-1500. On a perusal of the above referred orders passed by this Tribunal in O.A.No.371 of 2002, O.A.No.957 of 1990 and W.P.No.22405 of 2002, we find that the submissions of learned counsel for the applicant is absolutely correct. Merely because in the operative portion of order in O.A.No.371 of 2002, the respondents were directed to examine the case of the applicants as per departmental instructions and grant them the consequential benefits to which they may found entitled, the respondents are not entitled to contend that they will ignore the earlier part of the observations made by this Tribunal in para-15 and have considered the case of the applicants only with reference to the departmental instructions. We are therefore satisfied that there is no compliance with the orders of this Tribunal in OA.No.371 of 2002. The respondents are therefore directed to comply with the orders of this Tribunal by extending the scale of Rs.1350-2200 to all the applicants from the same date their counter parts elsewhere in India were extended the benefit and to pay the consequential arrears due to them. Call on13.11.2003 for compliance.

Against the said order, the present writ petition has been filed.

3. Learned counsel for the respondents has taken an objection that the writ petition itself is not maintainable, on the ground that no writ petition could lie against an order passed in a contempt petition and the same has to be filed before the Supreme Court, as held by the Supreme Court in *T. Sudhakar Prasad v. Govt. of A.P.and others*.

4. On the other hand, learned Standing Counsel for Central Government submits that in the writ petition, the order in O.A.No.371 of 2002 dated 28.06.2002, as construed in C.P.No.16 of 2003 dated 16.10.2003 was challenged. Therefore, in effect, what was challenged is the order passed by the Tribunal in O.A.No.371 of 2002 only and thus the writ petition is maintainable.

5. We are afraid, we are unable to accept the contention raised by the learned Standing counsel for Central Government. If the Government intended to challenge the order passed by the Central Administrative Tribunal in

O.A.No.371 of 2002, nothing prevented them to file a writ petition at the earliest point of time and there is no requirement as such that a writ petition could be filed after a lapse of nearly two years. Moreover, the very prayer made in the writ petition itself manifests that the order, as construed in the contempt petition, is inappropriate and illegal. However, we find that the Tribunal has not finally disposed of the contempt petition. In fact, the proceedings are still pending before the Tribunal.

6. Under those circumstances, it is inappropriate for this Court to entertain any writ petition, more especially when the proceedings are pending. It is one thing to say that the writ petition is not maintainable against the final orders in the contempt case. But that stage has not reached in this case. Thus, we find that the writ petition itself is premature and the same is accordingly dismissed.

(G. BIKSHAPATHY. J)

(CH.S.R.K. PRASAD.J)

17.11.2004

ksld

To

1 The Secretary, Union of India, Ministry of Defence, Government of

India, South Block, New Delhi.

2 The Controller General of Defence Accounts, West Block-V, R.K.Puram, New Delhi.

3 The Controller of Defence Accounts, No.1. Staff Road, Near Secunderabad Club, Secunderabad-50009.

4 Two CD copies.